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October 30, 2014

Magistrate Judge A. Kathleen Tomlinson  
U.S. District Court, Eastern District of New York  
100 Federal Plaza, P.O. Box 9014  
Central Islip, NY 11722-9014

Re: Jarrett Jenkins v. Portfolio Recovery Associates, LLC  
U.S. District Court, Eastern District of New York  
No. 2:14-cv-03532-SJF-AKT

Dear Judge Tomlinson:

We represent the defendant in the above action. I write the Court due to ongoing difficulties with the pro se plaintiff in obtaining his cooperation with regard to scheduling.

Plaintiff had sought to schedule a deposition by telephone of the defendant on October 31, 2014. We had previously advised the plaintiff of counsel's scheduling conflicts due to other matters. Plaintiff had agreed to postpone the deposition, subject to arriving at alternate dates for the deposition.

The parties are in the midst of written discovery. There are outstanding issues regarding objections and responses which the parties need to attempt to work out before needing to bring these matters to the Court. I have suggested that we need to address these matters before depositions are taken so that depositions can be taken once, without the necessity of duplication and inefficiency.

Despite the fact that plaintiff has known that his chosen date (October 31) is not possible and that we were willing to discuss alternate dates, plaintiff stated this week, as though our request for a different date had never been made until now, that he is unwilling to postpone and that he refuses to accommodate our request, claiming that his time to do necessary discovery is being jeopardized. There remains ample time to conduct all necessary discovery.

We submit that the plaintiff is not conducting himself in the cooperative spirit mandated by custom and the Federal and Local Rules, and accordingly we write to request under Federal Rule 26(c) to request that defendant's deposition be postponed until after the first round of written discovery is completed, including the resolution by the Court of any necessary motions.

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All efforts to resolve these matters in accordance with Local Rule 37.3 have failed and have been met with threats, ultimatums and arbitrary deadlines sought to be imposed by the plaintiff.

Please advise.

Respectfully,

A handwritten signature in black ink, appearing to read "J. Elliot", with a stylized flourish at the end.

Jonathan D. Elliot

JDE/raf

cc: Jarrett Jenkins, Plaintiff (ECF)